

From: [Yacovone, Krista](#)
To: [Arnold, Adam C.](#)
Subject: RE: Jan 2016 104(e) Follow up
Date: Friday, June 03, 2016 2:54:00 PM
Attachments: [GAF_NJDEP_1989_ACO_discharge_viol.pdf](#)

Hi Adam,

See the attached ACO with accompanying cover letter. Pages 4-7 are missing. This was included as the last document in Exhibit D to ISP Environmental Services Inc.'s Response to EPA's January 29, 2016 Request for Information.

Thanks,

Krista

From: Arnold, Adam C. [mailto:AArnold@gibbonslaw.com]

Sent: Friday, June 03, 2016 1:56 PM

To: Yacovone, Krista

Subject: RE: Jan 2016 104(e) Follow up

Hi Krista. I have been searching our files, but have yet to find the ACO that you reference. Would you be able to send me a copy of the version that you have? That may assist me in locating a copy on our end. Thank you.

Adam

Adam C. Arnold, Esq.

Gibbons P.C.

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aarnold@gibbonslaw.com

From: Yacovone, Krista [mailto:yacovone.krista@epa.gov]

Sent: Thursday, June 02, 2016 5:34 PM

To: Arnold, Adam C.

Cc: Hatfield, William S.

Subject: RE: Jan 2016 104(e) Follow up

Bill and Adam,

Just took a look at the document and realized this is not the one that I need. I have a full copy of the 1989 ACO between GAF and NJDEP regarding cleanup activities, but do not have a copy of the ACO between GAF and NJDEP regarding GAF's effluent discharges to the Arthur Kill. The version I have is undated, but it appears to be from sometime between 1986 and 1991.

Apologies for the confusion and inconvenience.

Thank you,

Krista

From: Yacovone, Krista

Sent: Thursday, June 02, 2016 3:44 PM

To: 'Arnold, Adam C.' <AArnold@gibbonslaw.com>

Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>

Subject: RE: Jan 2016 104(e) Follow up

Thank you.

From: Arnold, Adam C. [<mailto:AArnold@gibbonslaw.com>]

Sent: Thursday, June 02, 2016 10:22 AM

To: Yacovone, Krista <yacovone.krista@epa.gov>

Cc: Hatfield, William S. <WHatfield@gibbonslaw.com>

Subject: Jan 2016 104(e) Follow up

Krista:

Following up on your call with Bill Hatfield yesterday, please find attached a complete copy of the 1989 ACO between GAF and NJDEP. Please let us know if you require anything further. Thank you.

Regards,

Adam C. Arnold, Esq.

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GAF CHEMICALS CORPORATION
1361 Alps Road Wayne NJ 07470-3688

201 628 3000

A Subsidiary of
GAF CORPORATION



cc: P UETTER
orig FILE 3.600.07

S. Mazouat
cc: Sr. Staff

June 2, 1989



Mr. E. Ryan
Novotny & Associates
Public Relations
Two Tudor City Place
New York, NY 10017

Dear Mr. Ryan:

Updating my letter to you of March 28 regarding the Administrative Consent Order (ACO) between GAF Chemicals and the NJ DEP on the Linden Plant permit to discharge treated waste water into the Arthur Kill, we have signed the ACO today, June 2, 1989. The signed document will be delivered to the NJ DEP on Tuesday, June 6, 1989.

The only revision to the attached statement in response to press questions are the name of the consultant which was changed from AWARE to Eckenfelder and the amount of money to be spent is now \$2 Million.

By the way, GAF Chemicals will be paying a penalty of \$308,000 in connection with settling the matters associated with the ACO. Other recipients of this letter should note that if you receive a press contact regarding this ACO you should refer the person to Novotny & Associates, Mr. E. Ryan (212) 902-5400.

If there are further questions, please contact me.

Sincerely,

W.E. Chambers,
Managing Director
Environmental, Product &
Employee Safety

WEC/ju
attachment
cc: S. Block
A. Lindenauer
A. Carlin
A. ten Braak

ML-WEC:35

An equal opportunity employer

RECEIVED

JUN 5 1989

H. F. MCCARTHY



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER RESOURCES

Jorge H. Berkowitz, Ph.D.
Acting Director

CN 029
Trenton, N.J. 08625-0029

(609) 292-1637
Fax # (609) 984-7938

| | | |
|---------------------------|---|----------------|
| IN THE MATTER OF | : | ADMINISTRATIVE |
| GAF CHEMICALS CORPORATION | : | CONSENT |
| LINDEN\UNION COUNTY | : | ORDER |

This Administrative Consent Order is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "NJDEP" or "Department") by N.J.S.A. 13:1D-1 et seq., and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and duly delegated to the Assistant Director of the Division of Water Resources (DWR) pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. GAF Chemicals Corporation (hereinafter "GAF") operates a facility (hereinafter "facility") located on DuPont Road, Block 587, Lot 1, Linden, Union County, New Jersey.
2. On December 30, 1985, NJDEP issued to GAF NJPDES Permit No. NJ0000019 (hereinafter "the Permit") effective February 1, 1986 and scheduled to expire January 31, 1991. The Permit authorized the discharge of pollutants from the facility to the Arthur Kill, a surface water of the State.
3. By letter dated February 6, 1986, the Department modified the effective date of the Permit to March 1, 1986.
4. Part IV, Pages 14 - 15 of the Permit requires that the discharge from Discharge 001 meet a limitation of no less than an LC50 of 20% (by volume) beginning February 1, 1988, and no less than an LC50 of 50% (by volume) beginning August 1, 1989 for Acute Toxicity.
5. A review of Acute Toxicity test reports submitted to the Department by GAF revealed that results at Discharge 001 for the following tests did not

meet the minimum limitation of $LC50 \geq 20\%$ percent (by volume) in violation of the Permit:

| <u>Bioassay Test Date</u> | <u>Permit Limitation</u> | <u>Test Results</u> |
|-------------------------------|------------------------------|-------------------------|
| 12\88 | $LC50 \geq 20\%$ (by volume) | $LC50 = 3.9\%$ effluent |
| 1\89 | $LC50 \geq 20\%$ (by volume) | $LC50 = 1.0\%$ effluent |
| 2\89 | $LC50 \geq 20\%$ (by volume) | $LC50 = 2.9\%$ effluent |
| 3\89 | $LC50 \geq 20\%$ (by volume) | $LC50 = 1.3\%$ effluent |

LC50 - Concentration of effluent resulting in 50% mortality of organisms tested.

6. GAF has informed the Department that it will require a period of one (1) year and eleven (11) months from April 1, 1989 to meet the final effluent limitations for Acute Toxicity set forth in the Permit.

7. Based upon these findings, the Department has determined that GAF has violated the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., specifically N.J.S.A. 58:10A-6, and the regulations promulgated pursuant thereto, N.J.A.C. 7:14A-1 et seq., specifically N.J.A.C. 7:14A-1.2(c).

8. Based upon the information available to the parties on the effective date of this Administrative Consent Order and to amicably resolve the above matter, the Department and GAF enter into this Administrative Consent Order without trial or adjudication of any of the facts or issues contained herein.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED AND AGREED THAT:

I. Enforcement Compliance Schedule

9. GAF shall meet the final effluent limitation for Acute Toxicity at Discharge 001 set forth in Part IV, Pages 14 - 15 of the Permit by March 4, 1991. GAF shall achieve compliance in accordance with the following schedule:

| | <u>STARTING DATE</u> | <u>COMPLETION DATE</u> |
|---------|--------------------------|----------------------------|
| Design: | April 1, 1989 | July 10, 1989 |

| | | |
|----------------------------|------------------|------------------|
| Permitting Process: | June 5, 1989 | October 23, 1989 |
| Purchasing: | August 28, 1989 | June 4, 1990 |
| Construction and Start-up: | February 5, 1990 | March 4, 1991 |

II. Progress Reports

10. GAF shall submit to the Department quarterly progress reports; the quarters being January through March, April through June, July through September, and October through December of each calendar year. Each progress report shall be submitted on or before the 30th day of the month following the quarter being reported. GAF shall submit the first progress report to the Department by July 31, 1989, for the second 1989 quarter. Each progress report shall detail the status of GAF's compliance with this Administrative Consent Order and shall include the following:

- a. Identification of site and reference to this Administrative Consent Order;
- b. Status of work at the site and progress to date;
- c. Difficulties or problems encountered during the reporting period;
- d. Actions taken or to be taken to rectify difficulties or problems;
- e. Activities planned for the next reporting period;
- f. A discussion of performance evaluation of all corrective remedial measures implemented to date.

III. Penalties

11. Within thirty (30) calendar days after the effective date of this Administrative Consent Order, GAF shall submit a cashier's or certified check in the amount of \$308,000 payable to "Treasurer, State of New Jersey", in settlement of violations noted in the FINDINGS section above to the address given in Paragraph 16 of this Administrative Consent Order.

12. GAF shall pay stipulated penalties to the Department for its failure to comply with the provisions of this Administrative Consent Order according to the following schedule, unless the Department has notified GAF in writing of modifications pursuant to the force majeure provisions hereinbelow:

For schedule violations: